

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 75 OF 2019**

The Executive Engineer,
W. D. XXIII (R & B), Bicholim,
Government of Goa,
Office at Bicholim, Goa.

..... Petitioner

V e r s u s

1. Shri Shankar Prabhakar Dalvi,
Resident of H. No.4/148/82,
“Shree Mangirish Prasad”,
PMC Ward, Durgabhat, Ponda,
Goa.

2. The Director of Settlement & Land Records,
Panaji,
Government of Goa,
With office at Directorate of
Settlement & Land Records, Panaji.

3. The Chief Secretary,
Government of Goa,
With Office at Secretariat,
Porvorim, Goa.

4. M/s. Bandekar Brothers Pvt. Ltd.,
Suvarn Bandekar Bldg.,
Swatantrapath, Vasco-Da-Gama,
Goa-403802.

.... Respondents

Ms. Susan Linhares, Additional Government Advocate for the Petitioner.

Shri R. G. Ramani, Advocate for the Respondents.

CORAM: C. V. BHADANG, J.

Date: 12th March, 2019.

ORAL JUDGMENT:

Rule, made returnable forthwith. Mr. Ramani, the learned counsel for the respondent no.1, who is the only contesting respondent, waives service. Heard finally by consent of parties.

2. By this petition, the petitioner (defendant no.1) is challenging the order dated 4/7/2018 passed by the learned trial court whereby an application (Exhibit 10) filed by the petitioner for condonation of delay of 50 days in filing the written statement is dismissed.

3. On hearing the learned counsel for the parties and on perusal of the impugned order, I am of the view that the application (Exhibit 10) deserves to be granted. It is now well settled that the period fixed under Rule 1 of Order VIII of C.P.C is directory in nature and in a given case where a party shows sufficient cause, the delay can be condoned. (See the judgment in **Kailash vs. Nanhku and others (2005) 4 SCC 480**).

4. In the suit filed by the first respondent, the petitioner was served with a

summons on 10/7/2017 and the petitioner sought time on 12/8/2017 to engage a Government counsel to defend the suit. Eventually a Government Counsel was appointed, who put in appearance on 5/9/2017 and had sought extension of time to file written statement. A draft of the written statement was sent to the concerned department for its approval, which resulted in delay in filing the written statement by fifty days.

5. Taking an overall view of the matter, I find that the petitioner has made out sufficient cause. In that view of the matter, the petition is allowed. The impugned order is hereby set aside. The application for extension of time (Exhibit 10) filed by the petitioner is allowed as prayed. The written statement filed by the petitioner is allowed to be taken on record. In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

Ap/-